

Applicant : Lorin R. DeBonte et al.  
Serial No. : 09/771,904  
Filed : January 29, 2001  
Page : 5 of 6

Attorney's Docket No.: 07148-063003 / CGL99/0007US11

### REMARKS

Claims 1-3 and 47-54 are pending and stand rejected. Applicants respectfully request reconsideration and allowance of claims 1-3 and 47-54 in view of the following remarks.

#### Specification

The Examiner requested that the specification be amended to complete the continuity information. The specification has been amended as requested by the Examiner.

#### Rejection under 35 U.S.C. §112, second paragraph

The Examiner rejected claims 52 and 53 under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner asserted that claims 52 and 53 are confusing as the sequence identifiers recited in the claim do not incorporate the limitation of claim 51, which recites that Lys is substituted for Glu. Applicants respectfully disagree.

SEQ ID NOS:11 and 12 incorporate the limitation of claim 51 in which a Lys is substituted for Glu. See, e.g., specification at page 5, lines 17-19. SEQ ID NO:11 sets forth the DNA sequence for the coding region of the IMC129 mutant *Brassica* Fad2-D gene. SEQ ID NO:12 sets forth the deduced amino acid sequence for SEQ ID NO:11. In SEQ ID NO:11, nucleotide 316 is an "A" instead of a "G" (see wild-type sequence set forth in SEQ ID NO:9), which results in a Lys being encoded at amino acid 106 in place of a Glu residue. Since SEQ ID NOS: 11 and 12 contain a Lys in place of Glu, claims 52 and 53 are sufficiently definite under 35 U.S.C. §112. The Examiner is requested to withdraw the rejection of claims 52 and 53 under 35 U.S.C. §112, second paragraph.

#### Double-Patenting

The Examiner provisionally rejected claims 1-3 and 47-54 under the judicially created doctrine of obviousness-type double patenting over claims 1-8 of copending Application Serial No. 08/572,027. This rejection is moot as claims 1-8 of Application Serial No. 08/572,027 have been canceled.

Applicant : Lorin R. DeBonte et al.  
Serial No. : 09/771,904  
Filed : January 29, 2001  
Page : 6 of 6

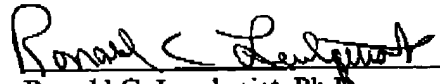
Attorney's Docket No.: 07148-063003 / CGL99/0007US11

CONCLUSION

Applicants respectfully request reconsideration and allowance of claims 1-3 and 47-54 in view of the above. No extension fees are due as this response is being filed before the end of the shortened statutory period. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: Mar 21, 2005

  
Ronald C. Lundquist, Ph.D.  
Reg. No. 37,875

Fish & Richardson P.C., P.A.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696

60274984.doc